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Vice-Chair

Mr. John Nater

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• (1100)

[English]

The Vice-Chair (Mr. John Nater (Perth—Wellington, CPC)):
Good morning.

[Translation]

Order, please.

[English]

Welcome to our 56th meeting of the Standing Committee on Official Languages.

We welcome Mr. Donnelly, Ms. Dabrusin, Mr. Gerretsen, and Ms. Ratansi, who are joining our wonderful committee. It's nice to see a few new faces around the table when some of our permanent members are unable to join us.

This morning we'll begin with our two witnesses, Mr. Thompson and Mr. Bergman. Mr. Thompson represents the Quebec Community Groups Network, and Mr. Bergman represents the Association of English speaking Jurists of Quebec. I understand that together you have prepared 10 minutes of opening comments. Following that, we'll go to questions from the committee.

The floor is yours for 10 minutes.

Mr. Stephen Thompson (Director, Strategic Policy, Research and Public Affairs, Quebec Community Groups Network): Good morning, everyone. There are some new faces, so I'll explain that the Quebec Community Groups Network is a not-for-profit organization that represents Canada's English linguistic minority communities, which we refer to collectively as the English-speaking community in Quebec. There are just over one million Canadians in our community, and as I said, our official language minority community is located in Quebec.

Good morning, Mr. Nater, Mr. Donnelly, and members of the House of Commons Standing Committee on Official Languages. I'm sorry, I didn't know Mr. Choquette wasn't going to be here.

We're very pleased to be here today to provide evidence in the committee's study of the full implementation of the Official Languages Act in the Canadian justice system. We're also happy to be joined at the table by the Association of English speaking Jurists of Quebec. I'll be very brief in our opening remarks to allow Michael Bergman to introduce the association and its future plans.

Our community is very excited about the promise of an organic access-to-justice capacity. Please note that the QCGN has submitted

a detailed brief that provides commentary on the topics under the committee's consideration. I'll outline the brief's main points now and will look forward to answering your questions.

Just to touch on a few points on the Supreme Court of Canada judicial appointment process, the QCGN supports a process for appointing Supreme Court of Canada justices that is transparent, inclusive, and accountable to Canadians. Incidentally, we have also supported, and will continue to support, legislation that would make functional bilingualism without the aid of an interpreter a requirement for appointment to the Supreme Court of Canada.

There are two principal reasons that we support a bilingual capacity in all Canadian courts, and a bilingual superior court and court of appeal judiciary. First, where rights exist, there must be a systemic capacity for justices to hear cases and render decisions in both official languages. Second, the language skills of judges at this level must be sufficient to ensure stare decisis in the evolution of Canadian law. Maître Bergman can expand on this point.

We have three thoughts on access to justice. First, possessing rights and having a bilingual judiciary is of limited value if the infrastructure surrounding access to justice is not able to operate to provide services in both official languages. Second, we need a shared definition for access to justice, especially when discussing and developing evidence-based public policy. Finally, we need stable programming seed money from Justice Canada to help develop the association.

We are very concerned about the application of the Official Languages Act in Canada's correctional system. A recent visit to the Correctional Service of Canada's federal training centre in Laval was troubling. We witnessed prima facie violations of the act that we have every reason to believe are systemic in nature and therefore likely affecting English and French minority inmates in other institutions. Our concerns are detailed in our brief and may warrant a separate visit to the committee.

It is now my pleasure to introduce Maître Michael Bergman from the Association of English speaking Jurists of Quebec.

• (1105)

Mr. Michael Bergman (President, Association of English speaking Jurists of Quebec): Thank you very much, Stephen.

Thank you for the opportunity to address the committee this morning.

I am a firm believer that an organization that has more than three words in its name is extremely important. Therefore, you have two very important witnesses before you.

The association first came to life in August 2016. We are a johnny-come-lately, as they say *en bon anglais*. Our colleagues in the rest of the country, lawyers and jurists of the francophone language, have long had associations to advocate, lobby, and research on behalf of their communities. The English-speaking community in Quebec has only recently become organized in this regard, partly because of the nature of that community.

Colleagues of mine, a number of lawyers and I, co-founded the association less than one year ago. We recognized that there's a serious problem with access to justice in the English language in Quebec; namely, it is in decline, exponentially so as the years pass, and will continue to decline. The average English-speaking citizen in Quebec has more and more difficulty interfacing with the system at all levels, including federal, in the English language. If this is not abated, if ways are not found to improve access to justice in English, then the system of English language representation and the ability of the citizen to speak in English before any *instance administrative* or tribunal in Quebec will gradually fade away.

This extends to other issues, too. Our Court of Appeal in Quebec is renowned for its judgments in constitutional law, human rights, administrative law, and diverse areas of the law, but in the rest of Canada, very few lawyers or judges have any idea what the Court of Appeal has said, because other than 6% of the judgments of the Court of Appeal, all of the rest, 94%, are in the French language. There are not the funds or the translation services to render these judgments into official English. So you do have anomalies where a court of appeal in another province says *x* when the Court of Appeal in Quebec already said *y*. That is not good for this country.

You will notice that the association did not submit a brief to you for this morning. That is unfortunate, but not an accident. The reason is simple. Having just started, we are a group of volunteers. We are lawyers. We are practising lawyers. We've only recently, in January of this year, received some program funding, \$77,000, from Justice Canada. Most of that is for preliminary research. Research is important. Research gives us empirical data. It gives us facts, the ability to advocate based on the truth. We have no core funding. We can't hire an executive director. We have no permanent structure. We need that desperately. Funding for the association, and any group of our nature, needs a core funding program. This is true not only in Quebec, but in every single part of this great country. Absent that, we are dedicated volunteers, but there are only so many hours in the day, as I think members of Parliament here know all too well.

What is the consequence of the decline of the use of English in access to the justice system throughout Quebec? This decline is pernicious. It will have important structural effects in the future over generational time. If English goes into decline as an official minority language in the justice system in Quebec, sooner or later the rest of the country is going to say that if one of the pillars of our duality is now in decline, what about the other pillar, francophones outside Quebec? Slowly we will inadvertently, unfortunately and tragically evolve into a country where justice is rendered in Quebec in French and the rest of the country in English.

•(1110)

This is wrong. This must be stopped. We need more legislation. We need funding. The federal government, the Parliament of

Canada, has an important role in this. It is not simply symbolic. It's implementing programs and legislation that recognize that in modern society, in the 21st century, every citizen has the important right, the liberty, the freedom, the individuality, to approach justice in his or her mother official tongue. Failing that, we fail our companions and colleagues throughout this country.

I'm certainly open to questions. Five minutes is a short time to try to get in a lot of words and a lot of important ideas, but as I said, we have more than three words in our name. You noticed I said only "association". I didn't say "Association of English speaking Jurists of Quebec Inc."

Thank you very much.

The Vice-Chair (Mr. John Nater): Thank you, Mr. Bergman and Mr. Thompson. We appreciate the comments thus far.

We will move to our rounds of questioning, beginning with Mr. Généreux for six minutes.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you, Mr. Chair.

[*Translation*]

I would like to thank the witnesses for being here this morning. This is very interesting.

Mr. Bergman, you've surprised me quite a bit by saying that access to justice in English in Montreal is declining steeply. I am really surprised by that. Do you mean that this decline began a long time ago? What makes you say that there is less access to justice in English in Montreal now than there was in the past?

Mr. Michael Bergman: You used a very important word: "Montreal". Actually, I'm talking about Quebec, all of Quebec, all regions, including major centres. It is clear in the regions that the use of English before the courts is in significant decline, as is the bilingualism of judges, clerks, administrative judges, authorities, officials and the court administrative staff. In my experience, even in Montreal, in the Montreal administrative tribunals, it is a matter of courtesy.

Mr. Bernard Généreux: Of courtesy?

Mr. Michael Bergman: Yes, of courtesy. Most of the administrative judges appointed by Quebec are not bilingual. Even at the superior court, where judges are appointed by the federal government, they may speak in English from time to time, but all rulings are in French. I even have some examples where all the parties are anglophone, but the court rulings are in French. It's too bad, because some people can't read the legal jargon in French. In fact, it isn't even the same thing as when we're chatting amongst ourselves in a bar or somewhere. So we have to request a translation. However, it takes at least six months for the system to give us a translation. So it's impossible. I have to have documents translated for my clients, at my expense, and the translation isn't official.

•(1115)

Mr. Bernard Généreux: Mr. Thompson, you said that you went to a centre in Laval. Was it a detention centre? You talked about Laval earlier, but I misunderstood where you were. You've been able to observe certain things.

Mr. Michael Bergman: He was visiting; he wasn't the one incarcerated.

Some hon. members: Oh, oh!
[English]

Mr. Stephen Thompson: Not this time.
[Translation]

Mr. Bernard Généreux: Remind me of the facts.
[English]

Mr. Stephen Thompson: This is a very complicated issue. I want to make clear from the beginning that the leadership of the correctional service in the Quebec region was proactive in establishing a relationship with our community. They are very concerned with their linguistic responsibilities and looking for a way to fulfill them. This is not a case of their not wanting to do it. They really want to do it. They just don't know how.

Mr. Bernard Généreux: We're talking about federal correctional institutions.

Mr. Stephen Thompson: Right. I'll give you some examples of what we saw. We visited one housing unit where none of the guards spoke English. They weren't able to communicate in English at all. Think about that as an—

Mr. Bernard Généreux: Is it because they didn't want to or because they—
[Translation]

Mr. Stephen Thompson: They weren't able to. It isn't a question of motivation. They were simply unable to.
[English]

For Correctional Service Canada in the Quebec region, only 2.9% of its employees are English-speaking Quebecers. It's very difficult for it to attract English speakers to work in the institutions. More important and more concerning for us was that, once you're a guard, you get \$800 a year for your bilingualism bonus, but because there are so few programs available for English-speaking inmates, the work load for those guards is much higher than the work loads for guards working with French-speaking inmates. So, guards who are in a bilingual position actively seek unilingual positions. It's not worth their time to take the \$800 for the reduced work load. There are actually systemic disincentives for guards to work in both official languages.

Mr. Bernard Généreux: What would you suggest?

Mr. Stephen Thompson: First of all, it's a very complicated system. There are programs within the institutions. There are programs delivered by Correctional Service Canada. There are programs delivered by the local college and the local school boards. A lot of the programs are volunteer-driven, such as Alcoholics Anonymous, Cocaine Anonymous, all of their sports events, and those sorts of activities. Those are all run by volunteers. They don't know any English volunteers. They don't have English volunteers to run those things. It's a very complicated problem.

What do I suggest? I suggest there might be a national study and a national approach for Correctional Service Canada to make sure it's able to live up to its official languages obligations. There's a problem there.

Mr. Bernard Généreux: Thank you very much.

[Translation]

The Vice-Chair (Mr. John Nater): Thank you, Mr. Généreux.

Ms. Lapointe, you have six minutes.

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much, Mr. Chair.

[English]

Welcome. Thank you very much for being here.

I'll talk to you about the same subject as my colleague Mr. Généreux did.

[Translation]

Which detention centres in Laval did you visit? Did you visit Leclerc Institution or the Federal Training Centre? Did you visit the institution in Sainte-Anne-des-Plaines? They are all federal detention centres.

[English]

Mr. Stephen Thompson: It's the Federal Training Centre.

[Translation]

Ms. Linda Lapointe: At the centre, were there a lot of inmates who, of Canada's two official languages, spoke only English?

[English]

Mr. Stephen Thompson: They didn't share those numbers with us. For the inmate OL population, they didn't share the exact number. I just don't think they knew the number that day when we visited. But we did meet with several English-speaking inmates. Don't forget that there's a very large Inuit population, or a disproportional Inuit population, so the institution is actually working in four languages: English, French, Inuit, and Cree. There's an aboriginal language angle as well.

We heard instances where English inmates had to transfer from minimum security institutions to medium security institutions to get access to the programs they needed to go before the Parole Board.

We also heard stories of English inmates who were incarcerated past their parole date because there were no English-speaking places for them in halfway houses in Montreal. If that's the case in Montreal, you can imagine what the situation is like in Quebec City. You can imagine what the situation might be like for a francophone inmate finding a French bed in a halfway house in Calgary or Edmonton.

These are systemic problems that CSC has in managing its OL commitments.

● (1120)

[Translation]

Ms. Linda Lapointe: Thank you.

You mentioned earlier that it was all the guards who did not speak both official languages. Is that the case for all detention centre staff? You said that only 2.9% of employees in Quebec were anglophone.

[English]

Mr. Stephen Thompson: Right, so these are the part VI numbers that we received from Treasury Board Canada. I know that earlier last year the committee was looking for part VI figures. We got those numbers out of Treasury Board. We shared them with the analyst. We know that 2.9% of Correctional Service's workforce in Quebec identify as English speaking.

Ms. Linda Lapointe: The problem is that the bonus is not enough.

[Translation]

That's what you said.

[English]

Do you have a suggestion to solve that problem?

Mr. Stephen Thompson: If the services were available to English-speaking inmates, there wouldn't be an increased workload for the Correctional Service officers taking care of them and managing their cases.

The problem right now is that, because these services aren't available, it's an exponential workload to work with an English-speaking inmate. It's not worth it for them. An extra \$800 a year is not worth it.

[Translation]

Ms. Linda Lapointe: Okay, thank you very much.

You mentioned that there were three aspects to consider in terms of the problem of access to justice in English, including infrastructure.

[English]

When you go to court, with all the employees over there, do you have a problem finding an anglophone in the justice court?

[Translation]

Mr. Michael Bergman: In the case of courts under Quebec's jurisdiction, most officials are unilingual francophone. Occasionally, an official speaks both official languages and is able to speak functionally with an anglophone resident. However, I would say that, in my experience, most officials speak only French, even in Montreal, and that if a resident asks to be served in English, someone needs to be found who can speak and hold a conversation in that language.

I want to correct one point. You asked Mr. Thompson a question that implies certain things. The fact that an anglophone speaks French easily or is completely bilingual is not a reason to deny that person's right to speak in English.

Ms. Linda Lapointe: I agree.

Mr. Michael Bergman: Once in a while, in Quebec, people wonder why an anglophone would need service in English if they can easily speak French. People say that, if everyone spoke French, as I am doing now, there would be no need to invest more in English-language services. If the language—I am not referring to the official language, but the functional language—in Quebec or elsewhere is French, everyone speaks French. So what's the problem?

Ms. Linda Lapointe: I would now like to ask Mr. Thompson a question.

[English]

We talk about *les centres de détention*, but is it easy to receive services in English from the RCMP?

Mr. Stephen Thompson: We have no indication that it is difficult. We have no indication from our community that there is a problem receiving services from the RCMP in English in Quebec.

[Translation]

Ms. Linda Lapointe: Okay.

Thank you very much.

[English]

The Vice-Chair (Mr. John Nater): Mr. Donnelly, you have the floor for six minutes.

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Thank you, Mr. Chair.

I would like to thank our witnesses for being here today to provide their testimony.

Mr. Thompson, I'll start with you. You know that the government has created an independent advisory board for Supreme Court of Canada judicial appointments. One of the criteria to select a new Supreme Court justice is bilingualism in Canada's official languages.

I wonder if you could comment on that.

• (1125)

Mr. Stephen Thompson: As we've said before, we support a legislative solution to effect that aim. The problem, as we see it, with having a board and having that as one of a series of criteria is that it is changeable government to government. It's an administrative “we would like to see”. It's not a legal “you must have”. There is a distinction there that we certainly make.

We have supported and continue to support legislation that requires Supreme Court judges to be bilingual without the aid of an interpreter.

Mr. Fin Donnelly: I'm sensing that you're saying it doesn't go far enough. What would you like to see? What would you recommend to the government to add or change?

Mr. Stephen Thompson: What we have said when this question has come up before this committee in previous Parliaments is that we support legislation that requires bilingualism in Supreme Court justices without the aid of interpretation.

Mr. Fin Donnelly: Mr. Bergman, do you believe it should be a right that individuals and lawyers be understood both orally and in writing by a Supreme Court of Canada judge without assistance? If so, can you provide the legislation and law with—

Mr. Michael Bergman: I believe that, but let's say that right now and since Confederation in 1867 we've had one-half of those rights. Section 133 of the Constitution Act, the original BNA, says that anybody can address a court in English or French in Quebec or at the federal level, but that doesn't mean that the listener has to understand what the person is saying. You could literally have, and I've seen this actually in some cases in Quebec, somebody address the court in English and the judge not be able to address the litigant in English, and he or she addresses the litigant in French.

Somebody has to do the interpretation, the translation. Typically and in most instances, it would be the lawyer. The judge would look at me and say,

[*Translation*]

“Mr. Bergman, could you interpret my words for your client?”

[*English*]

All of a sudden, I am the lawyer, and I am the interpreter. Not only that, in the meantime the trial is continuing, and so I need to listen to what is happening. My brain is functioning on three levels at once. Now, maybe I can chew gum and walk—that's two at the same time—but three is extremely difficult. What happens, at least in my experience, is that the translation suffers, and then I need to say to the judge,

[*Translation*]

“Your Honour, I need a break for a few minutes to summarize what you said for my client.”

[*English*]

In the meantime, my client is sitting there, and rightly or wrongly, the client does not understand French or understands it poorly and is looking like a deer in the headlights, wondering, “What's happening to my case? I don't understand. Is this good or is this bad? Are we winning, or are we losing?”

That is not right.

Mr. Fin Donnelly: Thank you for that explanation.

To go a little further in follow-up, this is a systemic issue across the country. We're looking at the top levels of the judiciary. Obviously we have a lot of work to do there. How would we address going to other, lower levels, the systemic issues that we face either in Quebec or in the rest of Canada?

Mr. Michael Bergman: I believe the federal Parliament has a duty to investigate ways to expand, within the meaning of section 133 of the Constitution Act, and has a duty to provide adequate programs for bilingual training of jurists and judicial personnel. It has a duty to put out the money, because unfortunately most provinces, including Quebec, do not want to put up the money. It has a duty to recognize that not only is it an obligation, but the French and English languages undergird the entire structure of the federation. Once that core principle weakens, then we need to re-examine what it is that binds us together.

We can be an example in the world. We are unique. There have been other countries that have tried this. Decades ago it was often called an experiment. I do not believe that Canada is an experiment. It is not a test-tube baby or some sort of high school chemistry lab

program. The federal Parliament, however, has an obligation on a continuing basis to find solutions. I've suggested a few, and I'd be happy to look at this and suggest others.

• (1130)

The Vice-Chair (Mr. John Nater): Thank you, Mr. Donnelly.

[*Translation*]

Ms. Dabrusin, the floor is yours for six minutes.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you, Mr. Chair.

I really care about this issue. I was born in Montreal. I am a lawyer now in Toronto.

[*English*]

I'm bilingual, and it's very interesting to hear what you were saying today. Thank you both for coming.

I want to go back. You spoke at the beginning, Mr. Thompson, about organic access to justice and also about finding a common definition of access to justice. Do you have any definition that you would like to suggest?

Mr. Stephen Thompson: No, I don't have any common definitions to suggest. I will, however, point out that we had a literature review that was funded by Justice Canada. It was the beginning of a large access to justice research project that the association has now taken over. One of the aims of that project was to define access to justice for our community.

We're saying in our presentation today and in our brief that it's really hard for us to come together and talk about access to justice when there isn't a common definition on access to justice. Everything I've read says, “There is no common agreement on this term, but this is what I think it is.” The Canadian Bar Association thinks it means this; Justice Canada thinks it's that; the FAJEF might think it's this; we might think it's something else.

How do you develop public policy around access to justice when you don't even know what you're talking about? All we're suggesting is that it would be nice if the stakeholders could come up with a common understanding of what the term means so we have a common lexicon on which to advance public policy.

Ms. Julie Dabrusin: As witnesses giving your expert advice today, I put it to both of you: What are the elements of access to justice? We've spoken about a couple of parts today, but if you had to break it down, what are the major components that we need to be looking at?

Mr. Stephen Thompson: In our literature review, what our research was looking at was not just about courts and lawyers. It is a problem when we talk about access to justice, because the first thing people do is invite lawyers to talk about it.

Of course, access to justice means alleviating poverty. It means giving people access to non-traditional justice mechanisms and conflict resolution mechanisms. It means remediation. It means taking a look at some of the barriers to people accessing those mechanisms, such as gender, and in our case, linguistic barriers. There are gender barriers, age barriers, and means barriers, so it's a very wide question.

Again we get back to the fact that because there is no common definition, we can talk about the parts that we think are in it, but I could keep talking all day about factors, because there are no bounds to the definition.

Ms. Julie Dabrusin: Okay.

Monsieur Bergman.

Mr. Michael Bergman: I would like to take a stab at this. First, I'd like to remark that you and I have something in common. I am from Montreal. I live in Montreal and I practise in Montreal, but I'm also a member of the Law Society of Upper Canada and have pleaded in Toronto, Ottawa, Kingston, Brampton, and other parts of Ontario in every level of court, as well as every level of court in Quebec.

Access to justice has become a cliché. Let's back up a bit and address part of what the cliché tries to encapsulate.

Not so long ago, all the laws of Canada, of the federal Government of Canada, fit in my bookcase on one shelf. Now I would need a bookcase that reaches the ceiling—

• (1135)

Ms. Julie Dabrusin: Or a good computer.

Mr. Michael Bergman: —or a computer. That's just to give you an example in paper.

The rules by which our society is organized have become extraordinarily complicated and manifold, so that every individual in this country, at some point during their daily life, in some way encounters justice. They may not articulate it that way, but they interface with the rest of the world based on a series of elaborate rules that didn't exist in a previous era.

In fact, in a previous era, you could argue that the average person had very little to do with justice. They lived their lives in slow motion. Today, it's not the same. Access to justice recognizes that every Canadian, every day, in some way is touching the justice system. That is not just a formal system, it is any informal group of rules.

Ms. Julie Dabrusin: I'm going to jump in, because I'm quickly running out of time and I want to get in one more question for you.

I would think that as a lawyer you would be well positioned to answer this. There is a private member's bill, Bill C-203, that is being discussed as well. What is your thought about the constitutionality of that proposed bill in light of the Nadon reference?

Mr. Michael Bergman: There are many difficult problems that stem from the Nadon decision itself, and they are conceptual problems.

With the greatest of respect, I do not personally agree with the Nadon decision. Frankly, it is a decision that had a certain moment in time, but it does not look at the long-term policies necessary to build on the constitutional requirements of what we need for a sane and proper Supreme Court or other tribunal.

I think that anything that amends Nadon, that ameliorates that, that recognizes there is a broad diversity of jurists who may be able to work within the system and does not become bound to what, by this

time, is an ancient understanding... Probably, if we asked the people who were concerned 100 years ago, they would say that was not what they ever intended.

[*Translation*]

The Vice-Chair (Mr. John Nater): Thank you very much.

Mr. Arseneault, the floor is yours for six minutes.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Thank you, Mr. Chair.

Welcome, Mr. Bergman and Mr. Thompson.

Mr. Bergman, for years, I was a member of the Association des juristes d'expression française du Nouveau-Brunswick, which has exactly the same ambitions as your new organization. I am fortunate because that organization was already around in New Brunswick when I became a lawyer. So it was easy for me to request that language rights and access to justice in French in New Brunswick be respected. Congratulations for all the volunteer work that you and your colleagues do in Quebec to that end.

That said, I was surprised to hear what you said today. This is the first time I have heard that Quebec judges are not bilingual. Given the number of presentations we've heard so far, I may be wrong, but my understanding was that the problem is that there has been no publication or translation of legal documents in English. However, in the oral proceedings in court, judges are able to understand and speak both languages. But you're telling us that this is not the case.

Mr. Michael Bergman: Based on my experience, outside greater Montreal, that's the reality, period. Within greater Montreal, it depends. Some judges are perfectly bilingual, while others say they can listen and understand, but in order to talk to us and say what they mean, they have to speak French. That's the problem. The litigant speaks English and the judge listens in English; the judge speaks French, the litigant listens in French. The intertwining of the languages makes it difficult for the parties to understand what is happening in the case.

Mr. René Arseneault: Okay.

In my small, officially bilingual province of New Brunswick, we also have judges who are unilingual anglophones. It does happen. However, our interpretation system is very efficient. Having practised law in similar cases, I don't see a concern in that sense.

Why doesn't Quebec have legislation that allows for or requires simultaneous interpretation of trials conducted in both languages?

• (1140)

Mr. Michael Bergman: In Quebec, in provincial courts—not federal ones—there is none. It's zero. The Charter of the French Language has no provisions for interpretation such as the one you have here, in this room, simultaneous, automatic and paid for by the government.

Mr. René Arseneault: Are you talking about Bill 101?

Mr. Michael Bergman: Yes.

Mr. René Arseneault: I'm not from Quebec, but I have an idea.

Mr. Michael Bergman: Not just Bill 101, it's the system.

Mr. René Arseneault: Okay.

I'm asking you a question as a federal member of Parliament. Our committee's role is to try to see how to help our society progress.

What request can you make to us, as federal members of Parliament, to find an answer to your problem in Quebec courts, which are under provincial jurisdiction?

Mr. Michael Bergman: We are asking for a funding program to make interpretation possible in each courtroom and courthouse, the way it is in this room and in the Federal Court and the Supreme Court.

Perhaps this is very expensive for Canada, but Canada needs a program like that. Every time there is a civil trial—it's a different story for criminal trials—there needs to be an interpretation service in the courtroom. With 21st century technology, it could be available. It is only a question of investment.

Mr. René Arseneault: I'm just looking at courtrooms here. Access to justice includes prisons, police officers, and so on, but right now I'm just looking at courtrooms, without forgetting the other aspects.

Has your organization, which is brand new, started the dialogue with the provincial government to find out whether there is any openness to that effect?

Mr. Michael Bergman: Not yet. I have to say that we are like a baby learning to walk. As I said in my presentation, we receive only \$77,000 for three programs, for six weeks, which will end in a few weeks. Those are simply programs trying to set up the basics, that's all.

Mr. René Arseneault: Does the \$77,000 come from the feds?

Mr. Michael Bergman: It comes from Justice Canada.

Mr. René Arseneault: That's really interesting. Good luck.

Mr. Thompson, are you a jurist, a lawyer, too?

Mr. Stephen Thompson: No.

Mr. René Arseneault: I would actually like the opinion of someone who is not a lawyer.

Your organization has been around for a long time. We have often met its representatives here. They are well organized and well informed.

I will repeat my question by asking you how could lawmakers ensure that bilingual, truly functionally bilingual, judges are appointed to the Supreme Court of Canada. What does your organization suggest?

[*English*]

You can say it in English if you want.

Mr. Stephen Thompson: Thank you. I will exercise my right to do that.

This seems to be a fairly simple question to answer. There is legislation requiring federally appointed judges to have reached a certain level of bilingualism. You give them a language test and it's part of the process.

Getting back to what Mr. Donnelly said earlier, you're focusing on the judges. You're going to fix the judges, and every judge in Canada is going to be bilingual. Imagine every judge in Canada being bilingual. It doesn't matter, because the clerk isn't bilingual, the people around the judge aren't bilingual, and the decisions of the courts of appeal aren't being translated into both languages.

[*Translation*]

It's not only the judges, but the system.

[*English*]

It's the system around the judge. That's the level this committee might want to consider.

I will just bring up that Justice Canada right now, for example, funds linguistic training for provincially appointed judges. Therefore, there is an appetite in the provinces, including in Quebec, for the federal government to support linguistic training for areas of provincial jurisdiction, even in the provincial courts. The hook is there already. It's a matter of expanding that to include the people who support the courts.

• (1145)

The Vice-Chair (Mr. John Nater): Thank you.

[*Translation*]

Thank you, Mr. Arseneault.

Ms. Boucher, go ahead.

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): Thank you, Mr. Chair.

Good morning, gentlemen. I am pleased that you are here with us.

We have just heard a different point of view.

I come from Quebec. When I worked for the public safety minister at the time, they thought I was the most bilingual person, when I would say “Hello” and “One moment, please”. That's how it is in Quebec City.

Does Bill 101 in Quebec have an impact on all the other systems, such as the legal and health care systems? Is it preventing us from moving forward in the rest of the community?

Mr. Michael Bergman: The attitude in Quebec is that English is a second language, but it is best to speak French. If you want good service, you have to speak French.

Let me give you an example, which may be a little extreme. I was in a courtroom in a courthouse. My opponent, the judge and I were all anglophones. There was no client, it was only a plea on a point of law. Everyone spoke French. Increasingly, the language of Shakespeare no longer works in Quebec.

Is it a matter of courtesy for the majority? Is it the fear that, if I speak English, no one will listen to me, give me better service or something along those lines? It's hard to say.

[*English*]

The “conventional wisdom”

[Translation]

dictates that if you really want something, such as good service, you have to speak French.

Mrs. Sylvie Boucher: Yes, we receive the same comments.

[English]

Mr. Stephen Thompson: I'd just like to say that it's probably the same for francophones outside Quebec. That's a minority experience.

I received a speeding ticket a few years ago and I went into the *cour municipale* in Mont-St-Hilaire. I was nervous. I wanted to fight the ticket, because I didn't think I did it. I was nervous, because I wanted to plead my case. I wanted to go in front of a judge and say that I didn't do this and that I wasn't there. I walked in and I was very nervous, because I didn't know enough French or the right words in French to be able to say that.

I walked in and all the signs were in French. Everything is in French. I found the crown prosecutor. My wife had drilled me on what to say in French, and I did my absolute best to say what I had to say. She said, "Stop, sir. You have a right to do this in English." Do you know the sense of relief? It was the feeling, "Okay, I can speak English."

I recognize that this is exactly the same feeling a francophone has outside Quebec. It's the same. I don't think focusing on whether it's different here or different there.... We could focus on what's different, but maybe it's better to focus on what's the same. The experience for a linguistic minority is the same no matter where you are.

I was guilty. It was an injustice.

Voices: Oh, oh!

Mrs. Sylvie Boucher: It's the first time we've heard something about this.

• (1150)

[Translation]

Many of the people the committee hears from are francophones in the same boat. We don't often hear from anglophones in Quebec who are dealing with the same thing as francophones outside Quebec. Today is the first time I am hearing about this, so I thank you for sharing that with us.

You said something else quite compelling. You said that, even if every judge were bilingual, it would not matter because the court administration system supporting the judge was not necessarily bilingual. We do, indeed, want every judge to be bilingual; everyone is in favour of virtue, after all. It is not all that helpful, however, to have a bilingual judge when the entire court administration system surrounding the judge is not bilingual. Everyone involved in the court administration system would need to become functionally bilingual for the approach to work.

Does that make sense to you?

[English]

Mr. Stephen Thompson: Yes, ma'am.

[Translation]

Mrs. Sylvie Boucher: Thank you.

The Vice-Chair (Mr. John Nater): Thank you, Ms. Boucher.

Mr. Samson, you have the floor for six minutes.

Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.): Thank you, Mr. Chair.

Thank you very much, gentlemen, for your presentations, which I found quite insightful. You gave very specific examples, and I must admit I quite appreciated that.

You said earlier that people expect those who are bilingual to speak the language of the majority. That's something I've often noticed in the Acadie region. Given that we, Acadians, speak both languages, the expectation is that we don't need to be served in French. The reality is that we do need French-language services, and we are entitled to ask for them. That is our right.

I also appreciated what you said about interpretation. Personally, I would quite enjoy arguing my case and interpreting what was said; honestly, it would be easier for me. I say that with tongue in cheek.

The point I want to make is the cultural influence languages have in society. That is what worries me. What I mean is that, if an argument or judgment is not translated into the other language, it diminishes the cultural influence of that language in society, in my view, and that worries me a lot.

Could you elaborate on that?

Mr. Michael Bergman: Is the question for both of us, or just one of us?

Mr. Darrell Samson: It's up to you who. If both of you answer, it will take too long.

[English]

Mr. Stephen Thompson: I'll be very brief and then I'll turn it over to Michael.

Something else that the committee has been studying, and I think you're going about it not in a direct way but in a way, is the definitions, and what it means to receive services from the federal government in an official language.

One of the things you are tackling and you will tackle certainly next year when the new Treasury Board regulations get to committee is the impact of technology. People will say that if you're an anglophone on the lower north shore and you're receiving service in English from Vancouver, then you're getting service in English. This is great. Skype, it's technology. Everybody is being served in their official languages. It's fantastic, right? No, because the person you're talking to in Vancouver speaks your language but has no idea what it's like to live on the lower north shore in Quebec, absolutely none.

What does equal service mean? It doesn't just mean a service in your language; it means you're talking to somebody who understands where you're from. Maybe your kids play baseball together, or maybe not, but at least you have a common reference to talk to each other. You're communicating not just verbally but at a much higher level.

Mr. Darrell Samson: It's not a translation.

[Translation]

Mr. Stephen Thompson: Exactly.

[English]

The cultural aspect of translation of services is not only about part IV. Now it becomes also about part VI, about talking not to somebody who just speaks French, but talking to a francophone, talking not to somebody who just speaks English, but talking to an anglophone.

Mr. Darrell Samson: Go ahead, Michael.

Mr. Michael Bergman: I've been a lawyer in Quebec for 40 years. No, I'm not old. I've been a lawyer in Ontario for 37 years. Maybe that made me old. Every few months a client comes to see me who says, "Mr. Bergman, I need to sue the Government of Quebec" or "I need to sue a city in Quebec" or "I need to sue a government agency in Quebec. I'd like to hire you because I've heard that you have an excellent reputation." That's a bit of marketing, by the way. "But I'm very concerned that because I'm going to litigate with a French institution, I'd be better off with a French lawyer, because maybe the judge or the government or the other lawyers or the system or the *fonctionnaires* or the *greffier* will hold it against me that I, an anglophone, have hired an anglophone lawyer."

This is the reality on the ground. To this client, this type of guy, I always say, "You're wrong. That is incorrect. It doesn't matter whether I am an anglophone, a francophone, a Martian. It doesn't matter. I'm a lawyer." But people perceive their environment in that sense. I'm sure that's a common experience throughout this country, whether it be in English or French.

● (1155)

Mr. Darrell Samson: Thank you.

I'll go on to a quick question number two and then I'll pass it to my colleague.

For my second question, we know

[Translation]

that it's a right. Access to justice in a person's preferred language, whether English or French, is indeed a right.

In Quebec, are efforts made to educate people on that right, to make them aware that the services are available and accessible to them?

Mr. Michael Bergman: In terms of provincial government bodies, the answer is no, in my opinion. I would qualify those efforts as more on the feeble side. With respect to federal bodies, funding for that purpose is available and public servants are bilingual, but is there a genuine desire to participate in the culture of the minority community? The answer is no.

Mr. Darrell Samson: Thank you.

[English]

The Vice-Chair (Mr. John Nater): Thank you, Mr. Samson.

Thank you to our witnesses for joining us today and for bringing their perspectives.

Mr. Michael Bergman: Thank you very much.

The Vice-Chair (Mr. John Nater): We will suspend for a few minutes while we set up the second panel and then we'll reconvene with the second round of witnesses.

● (1155)

(Pause)

● (1200)

[Translation]

The Vice-Chair (Mr. John Nater): Let's continue.

Joining us this afternoon are two witnesses: Michel Doucet, full professor and director of the International Observatory on Language Rights at Université de Moncton; and Caroline Pellerin, director of Infojustice Manitoba.

You will each have 10 minutes to give your presentations.

Ms. Pellerin will start us off.

● (1205)

Ms. Caroline Pellerin (Director, Infojustice Manitoba): Ladies and gentlemen, my presentation will focus on access to justice in both official languages. I will speak to the practical side of access to justice and leave the theory to my colleague. Specifically, I will address access to justice in French in Manitoba.

I am the director of Infojustice Manitoba, a legal resource centre in Winnipeg. Infojustice Manitoba is the initiative of the Société franco-manitobaine, a not-for-profit organization that advocates for the Franco-Manitoban community, looking after its well-being and lobbying for full respect of its rights. Infojustice Manitoba was established to promote access to justice in French in Manitoba.

Infojustice Manitoba is funded through the access to justice in both official languages support fund. In 2013, the federal government incorporated two pillars into the fund, information and training. Infojustice Manitoba is funded through the information pillar because we work to raise awareness and promote information and training in relation to language rights and access to justice in Manitoba.

Legal resource centres are part of a national initiative to promote access to justice in both official languages. Canada has a number of other legal resource centres, in Nova Scotia, Ontario, Saskatchewan and Alberta. Depending on the province's linguistic landscape, some legal resource centres are designated as bilingual, while others provide service mainly in French. Since Manitoba has anglophone legal resource centres, Infojustice Manitoba provides service solely in French.

As you know, despite existing statutory and constitutional obligations, Manitoba, like other provinces and territories, still falls short when it comes to ensuring access to the courts and legal information in French. That is why Infojustice Manitoba strives to ensure that legal information available in English is equally accessible in French.

A significant proportion of Manitoba's population is aging, while another sizable segment is made up of newcomers to Canada. These individuals have special needs when it comes to French-language legal services. Manitoba's francophone population is made up of mainly two groups: seniors who are usually more comfortable speaking French and immigrants who are not fluent in English.

Legal aid Manitoba provides bilingual service, but most of the individuals who have a legal issue are not eligible. Consequently, they have to represent themselves in court and deal with their legal issue with little to no French-language information. In the absence of French-language service, people have to access services in English or rely on a third party to help them navigate the legal system in English.

It is important to note that access to justice is more than just being able to speak French in court; most of the time, it involves being able to obtain advice and information in the official language of your choice. Most cases do not go to court and are settled thanks to legal advice or information provided to litigants. It is therefore essential that individuals be able to obtain legal advice and information in French if they are to have access to justice in French.

Infojustice Manitoba provides French-language services not just to Franco-Manitobans, but also to those who choose to speak French. Infojustice Manitoba works with a number of English-language legal resource centres in the province, including the Legal Help Centre and the Community Legal Education Association. Through these collaborative efforts, Infojustice Manitoba is able to reach all Manitobans and truly promote the use of French in Manitoba's legal system.

Despite the creation of a French-language legal resource centre, a serious imbalance still exists in Manitoba, in terms of legal information available in French versus English. We are therefore calling on the federal government to make a commitment in the next official languages action plan to support projects that promote French-language legal information in the provinces and territories.

• (1210)

Thank you. I would be happy to answer any questions you have.

The Vice-Chair (Mr. John Nater): Thank you very much.

Mr. Doucet, you have 10 minutes for your presentation. Please go ahead.

Mr. Michel Doucet (Professor, Director, International Observatory on Language Rights, Université de Moncton, As an Individual): Thank you, Mr. Chair.

I would like to thank the committee for having me today and giving me the opportunity to address bilingualism in Canada's justice system. I had prepared a presentation, but after listening to the previous witnesses, I decided to take an a cappella approach. In other words, I am going to proceed without accompaniment, straying from my presentation to address some of the issues raised by the group representing Quebec's jurists.

From the outset, I want to debunk the myth that bilingualism in the justice system exists on a nationwide level. It is true that section 18 of the Canadian Charter of Rights and Freedoms recognizes both language versions of Canadian statutes as equally authoritative. It is also true that every individual has the right to access justice in the official language of their choice when dealing with any court of Canada. Another truth is that section 133 of the Constitution Act, 1867, guarantees the same thing, as does section 23 of the Manitoba Act, 1870. All of these provisions recognize the right to a bilingual justice system, except that, at times, the Canadian legal system operates as though only one official

language existed. That is the case in Quebec, as the committee heard earlier, as well as in a number of other provinces. In other words, bilingualism does not reside in our justice system, but, rather, a sort of linguistic duality does.

Many lawyers and judges interpret federal statutes passed in both official languages simply by reading only one language version, meaning, the English version in certain provinces. Many judges who interpret federal statutes and even provincial ones, in New Brunswick's case, can understand them in only one language. They never consult the other version, the version of the statute passed in French. Any jurist operating in the context of judicial bilingualism knows full well, however, that both versions of the same statute are very often not consistent and that, in order to understand a statute with two equally authoritative language versions, being able to read and compare the two is paramount.

That is something I often find troubling when analyzing how certain provisions were interpreted on the basis of only one language version. At some point, we run the risk of contributing to a legal movement where the law does not say the same thing and is not applied uniformly, depending on the language version referred to.

That is why I think it is important to appoint more bilingual judges, not just in Quebec, but also across the country.

Equally important is educating those in the legal community on judicial bilingualism, beginning with law faculties. That is necessary in order to ensure that participants in Canada's justice system truly have access to judicial bilingualism and the ability to express themselves in the official language of their choice without the risk of being put at a disadvantage because of that language choice.

Moreover, much of the discussion earlier focused on the translation of decisions. I wholeheartedly agree with what my colleagues said about the need to have more Canadian court decisions translated into the other official language. On that front, as well, however, the importance of two equally authoritative language versions comes into play: when a decision is translated, it is quite possible to wind up with a translated text that does not entirely match the original.

I just wrote a book on language rights in New Brunswick, and I included clear examples of court decisions where the English and French versions did not match. In order to realize that a discrepancy exists, however, having the skills to read and understand both language versions is essential.

When you're trying to achieve bilingualism across the justice system, it's worrisome for the interpretation of the law to rely on a language version of a decision that does not fully match the original decision.

It is imperative that we better educate lawyers, judges, and all those who work in Canada's court administration system on the reality of judicial bilingualism in Canada, beginning, as I said, with the country's faculties of law.

That brings me to my next point, the bilingual proficiency of justices on the Supreme Court of Canada.

•(1215)

I am extremely pleased with the steps the government is taking to ensure that judges appointed to the Supreme Court going forward are functionally bilingual. Like my fellow witnesses who spoke earlier, I would go further, however. I think it's essential to set out the requirement in legislation.

On many occasions, I, myself, have argued cases in French before Supreme Court justices who were not able to follow the discussion. When a unilingual English-speaking judge listens to a submission in French, when the bench and the lawyer engage in a quick exchange, when French technical jargon is used, and when the parties speak very quickly—as I'm probably doing now—I can appreciate how difficult it becomes for interpreters to follow the discussion.

The situation is not the same in Canada's Parliament. There, parliamentarians have access to interpreters, and even though they may leave out or misinterpret something an MP or minister said, the impact is probably not as serious as it is in court, where every single word matters.

I had trouble sleeping one night, so I turned on the TV and started watching CPAC, which was airing legal proceedings. As I listened to the simultaneous interpretation of counsel's submission, I thought to myself that the lawyer was in trouble, because the interpreter frequently used the expression "cannot follow". In other words, the interpreter wasn't able to follow the proceedings or was not necessarily translating what the lawyer was saying. I realized that I was that lawyer. When things like that happen, you ask yourself some serious questions and wonder whether you are doing your client a disservice by arguing their case in their language before a judge who cannot understand the language being used without the assistance of an interpreter.

For that reason, I strongly support the idea of amending the Official Languages Act by removing the provision in section 16 that exempts Supreme Court justices from the language proficiency requirement. The Official Languages Act requires that all federal court judges be able to understand the proceedings in the official language chosen by the parties without the assistance of an interpreter. The same requirement applies to New Brunswick court judges. I believe the exception for Supreme Court justices should be eliminated.

What's more, a provision should be added to the Supreme Court Act making bilingual proficiency a standard requirement for judges, given that they will have to interpret statutes with two equally authoritative language versions. I don't think there is any risk of such a provision posing a constitutional problem. That is completely different from the situation in the Judge Nadon case, which dealt with the makeup of the bench. For that matter, I would be willing to answer any questions you have on the subject. In this situation, we are not dealing with the composition of the Supreme Court but, rather, with the language proficiency of its judges.

I agree with what my colleague Sébastien Grammond told the committee back in March, at a meeting I was also supposed to appear at. He indicated that it would be advisable for the federal government to refer the issue to the Supreme Court of Canada to dispel any doubts.

I will conclude my remarks with a few words about French-speaking jurist associations. My fellow witness talked about legal information, and earlier, Mr. Bergman was discussing the funding of such associations. New Brunswick's association of French-speaking jurists will soon submit, to the committee, a brief explaining the funding problems these organizations currently face. The association filed a complaint, under part VII of the Official Languages Act, with the Commissioner of Official Languages, who sided with the association. The commissioner's office asked the Department of Justice to meet with the association's representatives to discuss its core funding, a request the department has thus far ignored.

I think I will stop there and leave it to committee members to ask any questions they have about what I have said.

Thank you.

The Vice-Chair (Mr. John Nater): Thank you, Mr. Doucet and Ms. Pellerin.

We will begin our first round of questions with Mr. Généreux.

You have six minutes. Please go ahead.

Mr. Bernard Généreux: Thank you, Mr. Chair.

I thank the witnesses for being here today.

Mr. Doucet, your position is similar to that of Mr. Grammond. We are not against virtue, and we all think that judges should be bilingual when they are appointed. What I hear today leads me to think that the bill should have extended the bilingualism requirement to all judges without exception.

•(1220)

Mr. Michel Doucet: That would be ideal.

Mr. Bernard Généreux: Indeed.

According to the government, to be considered a bilingual judge, you have to be functionally bilingual. According to the government's definition, a functionally bilingual judge can understand arguments in the other language, but does not need to speak it.

Personally I think that there is a fundamental difference between someone who is functionally bilingual, and someone who is perfectly bilingual.

Is it that much harder to find perfectly bilingual judges in the anglophone provinces of Canada than to find functionally bilingual judges, that is to say judges who can speak English and French in a functional way? Do you see a dichotomy there?

You just explained that there is an issue because judgments are not exactly the same in English and French, nor are they always translated, understood or interpreted in the same way. We must also take into consideration the oral interventions that take place at the outset between the parties, the lawyers and the judge.

I have trouble understanding why we want the law to require that judges be functionally bilingual and not perfectly bilingual.

Do you also see a problem there?

Mr. Michel Doucet: Absolutely; I see a problem.

I also think that one of the issues currently is that a judge's linguistic competence is not really evaluated before his nomination. It is, rather, a self-assessment. I could talk to you about a situation that occurred recently in New Brunswick, but I won't go any further.

I do believe that a justice of the Supreme Court of Canada should be able to understand the exchanges, participate in discussions with the lawyers, and read the documents in both languages. So his or her linguistic capacities need to be evaluated. It is not enough to be conversationally bilingual. The judge must be sufficiently bilingual to understand a legal debate without the help of translation or simultaneous interpretation. I think that that level of bilingualism needs to be evaluated.

Some have said that it is difficult to find judges that satisfy that requirement in the different provinces. However, I have argued cases in several Canadian provinces, and I was often surprised to realize that in provinces where people believed there were none, there were judges who had that capacity. Take for instance the recently appointed Judge Rowe, who is from Newfoundland and Labrador. At a certain point, several people told us that it was impossible to find a judge or a lawyer who was perfectly bilingual in that province. And yet we found one, Judge Rowe.

And so it is possible, but training has to start very early. That is why I referred to law faculties.

Mr. Bernard Généreux: I absolutely want to discuss the accessibility of judicial positions. Bilingual lawyers could potentially have access to the bench.

I don't know if you are aware of the new judge selection process, but in the new form it says that candidates must have argued cases before this or that court, for example before the Superior Court in the case of Quebec.

Of course Canada is a vast country that comprises several regions. This week, the president of the Bar of Bas-Saint-Laurent-Gaspésie-Îles-de-la-Madeleine, Mr. Clément Massé, wrote to me as well as to several other members from that region about the process used to select judges. He said that the lawyers who practice in the regions plead in various types of courts, but not necessarily in superior courts or courts of higher instance. Consequently, they will not necessarily meet the requirements in the new process.

I don't know if you are aware of that situation. It must be the same thing in New Brunswick and throughout the country. When lawyers practise in the regions—and I don't want to call them regionalists or regional—they have fewer opportunities to plead before higher courts.

Have you heard about this?

Mr. Michel Doucet: This not something I have seen in New Brunswick. Candidates must have at least 10 years of experience as members of the Bar. Most of the lawyers who have that kind of experience have pleaded at least once or twice before superior courts. We are talking here about trial courts.

Mr. Bernard Généreux: We know that everything is wonderful in New Brunswick. René Arseneault lets us know often.

Mr. Bernard Généreux: When it comes to the justice system, everything is absolutely perfect in New Brunswick. I see that you do

not entirely agree. We are starting to get to know Mr. Arseneault. He always makes things sound better than they are, and does more than the client requires.

That said, I am going to put that aside for the moment, because I absolutely want to go back to the funding.

Ms. Pellerin, you spoke about funding to help organizations provide information and training. You also spoke about that, Mr. Doucet, as did Mr. Bergman before you. Do you have some idea of how much money it takes to do that in Canada, or by province? I expect that it has to be done in a balanced and fair way.

Mr. Michel Doucet: Oh, no!

• (1225)

Ms. Caroline Pellerin: I'll limit my comments to Manitoba. I don't necessarily know what funding the other provinces, such as Ontario, receive.

Mr. Bernard Généreux: How much do you receive from Justice Canada?

Ms. Caroline Pellerin: We received approximately \$300,000 to set up the legal information centre.

Mr. Bernard Généreux: And is that amount renewed annually?

Ms. Caroline Pellerin: No, that was for the period from 2013 to 2018. We began our activities somewhat later, so that amount covers the period from 2016 to 2018.

Mr. Bernard Généreux: So you have \$300,000 at your disposal for a period of approximately three years. That amounts to about \$100,000 a year.

Ms. Caroline Pellerin: Correct.

Mr. Bernard Généreux: Do you spend a lot of time providing information?

Do you receive funding from elsewhere, such as from the province?

Ms. Caroline Pellerin: For the time being, we only receive federal funding. Of course, we hope that the Manitoba Law Foundation will grant us a small sum. For the moment, those are the two bodies that can provide funding to us.

The Vice-Chair (Mr. John Nater): Thank you very much.

Mr. Arseneault now has the floor.

Mr. René Arseneault: Thank you, Mr. Chair.

Ms. Pellerin, Mr. Doucet, thank you for being here, for sharing your knowledge, and for providing us with more information about the challenges the justice system faces.

I would like to take advantage of this public forum to congratulate you. Mr. Bergman was telling us earlier about his volunteer work. What I want to say is addressed to all of you as well. All of the pro bono work you do for the good of society and your respective communities, without expecting anything in return, is worth more than gold or diamonds. Thank you very much.

I have a question for Mr. Doucet.

Mr. Bergman, who testified this morning, told us about a new organization in Quebec, the Association of English-speaking Jurists of Quebec. Acadians in New Brunswick have a similar organization, the Association des juristes d'expression française du Nouveau-Brunswick, the AJEFNB. Mr. Doucet, I think you are the founder, or one of the founders. If I remember correctly, the association has existed for more than 25 years.

We were talking about funding. The Manitoba association receives funding to provide information, but for the Association des juristes d'expression française, what are the challenges in Canada, generally speaking?

Mr. Michel Doucet: Ms. Pellerin spoke earlier about the information service. I want to speak about the Association des juristes d'expression française, which is not an information service. Earlier you congratulated Mr. Bergman for his advocacy work. You said that we needed organizations like the AJEFNB who work to ensure the equality of both official languages. Unfortunately, since funding now seems to be information-related, the basic funding that supported advocacy for equal access to justice in both languages is now practically non-existent. Mr. Bergman spoke of an amount of \$77,000. I think that the Association des juristes d'expression française du Nouveau-Brunswick does not even receive that much at this time. It has a part-time director general who also works for me.

As I explained earlier, not that long ago the AJEFNB filed a complaint with the Commissioner of Official Languages to challenge the lack of funding, which should be there pursuant to part VII of the Official Languages Act. The Office of the Commissioner agreed with them. That is in a report that was released recently. The AJEFNB should normally have discussions with Justice Canada to obtain the core funding that would allow it to do the work you referred to. That kind of work was being done at the time when you practised law in New Brunswick. However, the new philosophy that focuses more on legal information no longer enables the associations of French-speaking jurists to do this fundamental advocacy work.

Mr. René Arseneault: In fact, part of this advocacy work is what I would call police work. Correct me if I am wrong, but the work involves monitoring rights, and determining where we have to make representations and remind the governments concerned that there are rights and laws that must be respected. In a nutshell, that is the work of the jurists' associations.

Mr. Michel Doucet: The AJEFNB, and many other organizations as well, used to play that role. Those organizations ensured, for example, that a sufficient number of bilingual judges were appointed and that the governments took both linguistic communities into account in developing measures to provide equal access to justice in both languages, so that bilingualism in the legal system did not lose ground. That was indeed an important part of the work they did.

Mr. René Arseneault: Our committee represents the federal government. Do you think that if our committee were to make a recommendation, it should be that that funding needs to be restored or increased?

Mr. Michel Doucet: It isn't just that the funding needs to be increased, but we need to get that core funding back. Legal information is very important and funding for that purpose should be maintained. However, we also have to give the jurists' associations that want to do that work the opportunity to advocate to ensure

access to justice, and bilingualism in the justice system. At this time, they do not have the necessary resources. Earlier you were speaking about volunteer work. That is how those associations work. They do not even have full-time employees.

• (1230)

Mr. René Arseneault: What happens when there are legal challenges?

Mr. Michel Doucet: The work is done on a volunteer basis. We relied a great deal on the Language Rights Support Program. Now we are going to rely on the Court Challenges Program. I know that currently a lot of groups are waiting for the Court Challenges Program to be up and running in order to fund some legal actions. Obviously the ordinary citizen looking for justice cannot himself finance a legal recourse in a public interest case about linguistic rights.

Mr. René Arseneault: Thank you. That is very interesting.

Ms. Pellerin, in Manitoba, there is an association that advocates for linguistic rights or access to justice in French. Do you have the same financial problems? Is the lack of funding there just as acute?

Ms. Caroline Pellerin: The Manitoba Association des juristes d'expression française faces the same financial problems. The New Brunswick association has one employee; in Manitoba, there are no employees, but just a volunteer board of directors. This is a serious problem for this association in Manitoba. That is why the Société franco-manitobaine launched the legal information centre project for the Manitoba Association des juristes d'expression française.

The Vice-Chair (Mr. John Nater): Just a moment, please. I think I hear the bells, so I would like to make a suggestion.

Mr. René Arseneault: Could we agree to continue for 10 minutes longer? Do we have unanimity?

The Vice-Chair (Mr. John Nater): Just a minute.

[English]

We'll just verify if it's 30 minutes or 15 minutes.

[Translation]

Mr. Darrell Samson: It's 30 minutes long.

[English]

We'll continue for—

The Vice-Chair (Mr. John Nater): We do need unanimous consent to work through the bells. Is there unanimous consent?

An hon. member: Yes.

The Vice-Chair (Mr. John Nater): We will continue to work for 15 minutes. Then we have to have a hard break at that point for the bells.

Mr. Darrell Samson: It is just as good, if not better.

[Translation]

Mr. René Arseneault: Do I have any time left, Mr. Chair?

The Vice-Chair (Mr. John Nater): Yes, you have 30 seconds.

Mr. René Arseneault: Thank you.

If Manitoba jurists had one request to submit to the federal government about funding, what would it be?

Ms. Caroline Pellerin: We would ask that the core funding be restored. This would give us more resources to undertake projects, either for the legal profession or to provide access to justice for those who seek it.

I'd like to correct a mistake I made about the funding. It is \$300,000 a year, that is to say \$300,000 for 2016-17 and then another \$300,000 for 2017-18. I want to make sure that I am giving you the right information.

Mrs. Caroline Pellerin: We obtained it for two years, for a total of \$600,000.

Mr. René Arseneault: During how many years will you receive that funding?

The Vice-Chair (Mr. John Nater): Thank you.

[English]

Mr. Donnelly, you have the floor.

[Translation]

Mr. Fin Donnelly: Thank you, Mr. Chair.

[English]

I want to thank our witnesses for being here.

Mr. Doucet, you talked about the need for awareness of the decisions in both languages. Occasionally they don't say the same thing.

Mr. Michel Doucet: Occasionally.

Mr. Fin Donnelly: Could you speak a little more about that? Is that an issue of translation or interpretation or is that a different issue?

Mr. Michel Doucet: It could be both. Not only am I talking about the judgment, but I'm also talking about the legislation. Even if you have legislation in both official languages it doesn't mean that both versions say exactly the same thing. It is the same thing with the translation of a decision.

If we're saying that both versions of laws have equal authority, people must be able to read both versions. And if there is a divergence between both versions, they must be able to reconcile both versions. The Supreme Court of Canada is giving us a process to do that.

We have the same problem with decisions that are translated either into French or into English. Translators do a very good job, but sometimes something might be lost in the translation. I have examples of them in the books I've written, where the French version and the English version do not say exactly the same thing, but to be able to notice that, you have to read both versions. If you're not able to read both versions, you won't see it. There's a possibility of an interpretation later on, depending on which version you're using, an interpretation of the law that might be different if you proceed in French or if you proceed in English.

There are even examples of decisions of the Supreme Court of Canada where both versions don't say exactly the same thing. If

we're talking about equality in the judiciary, it becomes more and more important for lawyers and judges to understand that if you're using federal law, or using laws in New Brunswick, Manitoba, Quebec, or even in Ontario, that you be able to read both versions to make sure you're giving complete legal advice to your client and not only half.

• (1235)

Mr. Fin Donnelly: Currently in the judicial system, the Federal Court judges self-declare their state of bilingualism without any standardized testing or third party evaluation.

I wonder if you could talk a little bit about that.

Mr. Michel Doucet: That's a problem. I could auto-evaluate myself in Spanish and probably I would be fluent, but I don't believe that a person who speaks Spanish would say that I am fluent.

I believe there must be an outside.... If we do it for the public service, we should also do it for the judiciary. Before they are appointed, there should be an evaluation of their capacity to function in French and English for oral, written, and comprehension.

Mr. Fin Donnelly: Should there be a standard?

Mr. Michel Doucet: Yes, it should be a standard test.

[Translation]

Mr. Fin Donnelly: Thank you.

[English]

Madame Pellerin, you mentioned the action plan. What do you think Canada's, or the federal government's, main priorities should be in respect of access to justice in the next action plan? Perhaps you could start with the top three.

Ms. Caroline Pellerin: Obviously in my position, one of the main areas of focus should be funding in order to allow individuals to have information regarding any matter touching justice. It could be simple information guiding them in their journey to the law court or it could be information with respect to their own issues.

In Manitoba, we have a lot of information or resources for English-speaking individuals. Access to justice for people speaking English in Manitoba, according to me and where I'm standing, is not a problem. There are justice centres, legal aid, and a bunch of English resources for them. In French, the problem is that they need to be accommodated to obtain the same information that an English-speaking person will get. If they attend a legal help centre, they might have to come back the next week in order to see someone who speaks French. They might need to go somewhere else to get the same pamphlet in French or they might need to simply print the PDF version because the centre doesn't have the French version.

One of the main issues that needs to be addressed in the next plan is to ensure that French-speaking individuals have the same access as people who speak English. That can be with respect to lawyers, centres, resources, pamphlets, anything along those lines, just to ensure that people have the same access to the same information.

Mr. Fin Donnelly: If I could summarize, you've mentioned adequate funding, providing necessary information, and specific resources across the board. Is there anything else that you would add to that list? Is that it?

Ms. Caroline Pellerin: That's roughly it. With respect to the information centre, I don't want to speak for other organizations, but for me and for the centre of information in Manitoba, that would be one of the main areas of focus.

Mr. Fin Donnelly: Thank you very much.

[Translation]

The Vice-Chair (Mr. John Nater): Thank you.

We will conclude this round with Mr. Samson.

You have the floor for six minutes.

Mr. Darrell Samson: Thank you, Mr. Chair.

In the interest of time, I'm going to ask all of my questions together. I have three questions: two for Mr. Doucet and one for Ms. Pellerin.

First, Ms. Pellerin, what French services is the francophone minority community of Manitoba seeking to obtain?

Mr. Doucet, here in Parliament we have access to a lot of training to help us become bilingual. With the representatives of the Translation Bureau, we discussed the importance of training to help people become bilingual. We also discussed setting up co-op programs in universities in order to prepare the new generation. If that is done, should it not also be done for lawyers and judges, given the importance of bilingualism for the future?

Also, Mr. Doucet, let's suppose you became Prime Minister tomorrow morning for five years. What two or three measures would you put in place during your mandate to ensure better access to justice within five years?

I'm listening.

• (1240)

Mr. Michel Doucet: May I have two hours to reply?

Mr. Darrell Samson: Go ahead.

Ms. Caroline Pellerin: I will answer first, and then I will let Mr. Doucet answer the questions that require more exposition.

Manitoba francophones are asking for access to services in French right from the start of proceedings. That is to say, from the information stage right up to the end. Infojustice Manitoba is the go-to for those who launch a legal recourse and are looking for information. The point is to have a place where francophones can go to obtain information and services in French without being asked to come back the following Tuesday, for example, when a francophone trainee will be available. Despite that, the services francophones have access to are not always equal to those anglophones generally have. And so we are there right from the beginning of the proceedings.

As for access to jurisprudence or writ models, certain websites provide some in French, but the majority are in English. So there is a problem for the person who wants to prepare and represent himself. That is where Infojustice Manitoba comes in.

Mr. Darrell Samson: Thank you very much.

Mr. Doucet, you may answer.

Mr. Michel Doucet: Regarding training for judges, there is a very good program in New Brunswick offered by the Shippagan campus, under the direction of Judge Finn. This program is offered to judges nationally. Anglophone judges go there to experience total immersion in French. It is a good program. If I were with the federal government, I would multiply the number of programs of that type and provide funding for them.

If I were Prime Minister tomorrow morning, on the justice front, I would pass a law requiring that justices of the Supreme Court of Canada be bilingual when they are nominated. This would entrench that requirement.

I would also see to it that more training be given to officers of the court and to judges, in both official languages, so that the Canadian justice system may indeed be bilingual and not dualistic.

Finally, I would provide funding to law faculties. I'm preaching for my own bailiwick here, even though I will be retiring from the law faculty on July 1 and will no longer be there. Be that as it may, the federal government should provide funding to law faculties so that they can make their students more aware of language rights. In many law faculties that is never taught. This funding would also be used to provide training to these future jurists, who will be applying Canadian laws, so that they have a better understanding of both Canadian systems, francophone and anglophone, and to allow them to become bilingual. It would be a commendable initiative on the part of the federal government to grant this funding to advance bilingualism in the justice system in Canada.

Mr. Darrell Samson: Thank you.

Do I have any time left, Mr. Chair?

The Vice-Chair (Mr. John Nater): No.

Thank you to the witnesses.

[English]

I would like to remind the committee that we are not meeting on Thursday. Thursday is a Friday, so we will not be meeting. Our next meeting will be on May 2.

[Translation]

The meeting is adjourned.

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